

BEFORE THE FEDERAL ELECTION COMMISSION

JUL 18 2001

In the Matter of)

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Charlene Spears)

MUR 4818

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SENSITIVE

GENERAL COUNSEL'S REPORT #5

I. ACTION RECOMMENDED : Deny the request for pre-probable cause

conciliation from Charlene Spears.

II. BACKGROUND

On October 15, 1999, the Commission found reason to believe that Charlene Spears violated 2 U.S.C. § 441f by permitting her name to be used to make a contribution to Walt Roberts for Congress. In her December 14, 1999, response to the Commission's findings, Ms. Spears requested pre-probable cause conciliation. See Attachment 1. On December 30, 1999, she asked that the request be held in abeyance until completion of the investigation. See Attachment 2. In April, 2001, the Commission voted to deny other respondents' requests to enter into pre-probable cause conciliation. General Counsel's Briefs recently have been submitted to other respondents and to the Commission.

III. DISCUSSION

The investigation revealed that Ms. Spears, along with others, ran the Roberts campaign. During 1998, Ms. Spears would often call or visit the Roberts campaign and give instructions. She made decisions regarding campaign purchases, e.g., purchasing specific tee shirts. She gave campaign staff instructions, e.g., sending them to radio stations with copies of campaign ads. She handled some of the campaign's banking, e.g., ordering money orders for large campaign media purchases. After campaign manager Michael Faust resigned in July, Ms. Spears was even more involved in the campaign. Upon Ms. Spears recommendation, the Roberts campaign hired

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1 Spears' good friend Anne Prather. Ms. Prather managed the office and completed campaign
2 disclosure reports. Documents produced by various consultants substantiate the involvement of
3 Ms. Spears in the Roberts campaign.

4 In December 2000, this Office traveled to Oklahoma and deposed Ms. Spears. Ms.
5 Spears acknowledged that her contributions to Walt Roberts were reimbursed with cash from her
6 boss, Oklahoma state Senator Gene Stipe. The investigation also revealed that Ms. Spears was
7 instrumental in the reimbursement of other contributions, together totaling at least \$10,810 in
8 connection with the Roberts campaign, and an additional \$2,000 to another Congressional
9 campaign (Delahunt for Congress). Additionally, as Senator Stipe's assistant, Ms. Spears was
10 intimately involved in providing thousands of dollars to Walt Roberts campaign, often under the
11 guise of legitimate business transactions. At her deposition, Ms. Spears maintained that the
12 funds Stipe gave to Walt Roberts were for legitimate business transactions, e.g., purchase of
13 cattle for \$67,500, \$70,000 for an alleged option contract, and funds related to an art auction.
14 Following her deposition, Ms. Spears attempted to alter her testimony regarding the alleged cattle
15 purchase. She presented a new story about the alleged cattle purchase, that conflicted with the
16 recitation of the facts at her deposition, and with the sworn written statements of Senator Stipe
17 and Walt Roberts. These contradictions in testimony are fully discussed in the General
18 Counsel's Briefs to Senator Stipe and Walt Roberts, which have recently been distributed to the
19 Commission.

20 This Office has now completed its investigation. Given what is currently known about
21 the scope and nature of the violations and Ms. Spears' involvement, this Office believes that it
22 should submit a brief to her which will discuss all the above in detail, as this Office already has

1 done with other major respondents. Accordingly, this Office recommends that the Commission
2 deny the request of Charlene Spears to enter into conciliation prior to a finding of probable
3 cause.¹

4 **IV. RECOMMENDATIONS**

- 5
6 1. Deny the request of Charlene Spears to enter into conciliation prior to a finding of
7 probable cause to believe.
8
9 2. Approve the appropriate letter.

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11
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13 Lois G. Lerner
14 Acting General Counsel

15
16 7/18/01
17 Date

18
19 BY: Abigail A. Shaine
20 Acting Associate General Counsel

21 **Attachments**

- 22 1. Conciliation request
23 2. Request that conciliation be held in abeyance
24

25 **Staff Assigned:**

26 Xavier McDonnell
27 Margaret J. Toalson

¹ Investigators from this Office interviewed the conduits who received funds from Gene Stipe and Ms. Spears in exchange for their contributions. They include Jamie Benson (\$1,990), Gloria Ervin (\$1,970), Cynthia Montgomery (\$1,970), and Deborah Tumer (\$950). These four persons also requested pre-probable cause conciliation. Although two of these conduits were cooperative (Montgomery and Tumer), the two others (Benson and Ervin) were not and refused to answer certain questions.